

California's Area of Origin Laws

A report to the State Water Resources Control Board
and
the Delta Stewardship Council

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Introduction

- Enacted many years ago
- Written Generally
- Recent court cases
- Importance to California's Water Future



The Area of Origin Laws

- The County of Origin Law (1931)
- The Watershed Protection Statute (1933)
- The Delta Protection Act (1959)



Intent & Purpose of the Area of Origin Laws

- Reassure Northern California Water Interests
- Enacted During Formative Years of major water projects
- Alleviate fears of Owens Valley repeat



Important Dates

- County of Origin Law (1931): In response to 1927 Law regarding State Water Project Filings
- Watershed Protection Statute (1933): Part of Central Valley Project Act
- Delta Protection Act (1959): Tied to passage of State Water Project



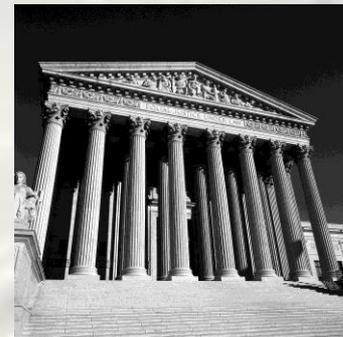
Common Purpose of Laws (Intent)

- Ensure that areas in which water originates shall have an adequate water supply for present and future needs.
- Laws not intended to preclude export of water to other areas before those needs arise.
- Instead, the needs of the Area of Origin take priority if and when they arise.



Court Decisions Interpreting the Area of Origin Laws

- Early Attorney General Opinions (1955 & 1956)
- Four Appellate Cases Since 2006
- While all Denied Area of Origin Claims, the Cases interpret the protection of the laws broadly.



Conclusions

- Their intent seems clear: to provide some measure of protection for Area of Origin water such that water will be available for future needs notwithstanding the development of export projects.
- While the intent is clear, the language of the laws is very general.
- There have been four recent court decisions that contain discussions of the Area of Origin Laws. All four cases considered and rejected area of origin claims.

Conclusions cont'd

- The court case that most directly implicated the Area of Origin Laws, the Tehama Colusa case, was more of a contract interpretation case than a broad decision interpreting the laws.
- A common theme of the cases is that the laws unquestionably apply to the major state and federal water projects in the Delta watershed.
- The cases also make it clear that the laws do not independently create water rights for Area of Origin inhabitants. Rather, a water right must exist before the protection of the laws may be invoked.

Conclusions cont'd

- Where there are no water rights in existence, the Area of Origin Laws provide a means for an Area of Origin inhabitant to acquire a water right would have priority over the water rights of the export projects.
- The Area of Origin Laws do not entitle valid water right holders to divert water that has been previously stored upstream and later released for downstream rediversion or instream beneficial use.

Conclusions cont'd

- Area of Origin inhabitants have the right to purchase stored water from the projects, but the receipt of stored water is subject to the terms of the parties' contracts. Unless such contracts have special status by virtue of settlement or contract language, they are subject to curtailments based on water shortages the same as other contractors.

Conclusions cont'd

- The intersection of the Area of Origin Laws with Stored Water Bypass requirements is less than clear when considering the Legal Delta. As an estuary, the Delta will always have water even during very dry years. The Area of Origin Laws certainly provide protection to valid water right holders in the Legal Delta as to natural flow. Whether there is enough natural flow in the Delta to satisfy all valid water rights holders may be an open question. And, even where valid water rights exist, they are subject to the constitutional mandate that all water must be used reasonably and efficiently.